



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2022-0719, FRL-10254-01-R10]

Air Plan Approval; ID; Incorporation by Reference Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the Idaho State Implementation Plan (SIP) submitted on May 4, 2022. The submission updates the incorporation by reference of the national ambient air quality standards and related planning and monitoring requirements into the Idaho air quality rules as of July 1, 2021. Idaho undertakes such updates regularly to ensure the state air quality rules and the federally enforceable Idaho SIP remain consistent with EPA air quality regulations over time.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2022-0719, at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information or other information the disclosure of which is restricted by statute.

Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about Confidential Business Information or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Kristin Hall, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553-6357 or hall.kristin@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Evaluation
- III. Proposed Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Background

Section 110 of the Clean Air Act requires each state to submit a State Implementation Plan (SIP) to attain and maintain the national ambient air quality standards promulgated by the EPA. To stay up to date with changes to the standards and related planning and monitoring requirements, Idaho incorporates certain Federal provisions by reference into state air quality rules as of a specific date. Each year, Idaho updates the citation date and submits the revised state air quality rules to the EPA for approval into the Idaho SIP.

II. Evaluation

On May 3, 2022, Idaho submitted such an update. In the submission, Idaho revised the date by which specific Federal provisions are incorporated by reference into the state air quality rules from July 1, 2020 to July 1, 2021. Specifically, these Federal provisions are incorporated in IDAPA 58.01.01.107 *Federal Regulations Incorporated by Reference*, section 03, paragraphs a through e, and consist of the following:

- National Primary and Secondary Ambient Air Quality Standards, 40 Code of Federal Regulations (CFR) part 50;
- Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR part 51, with the exception of certain visibility-related provisions;
- Approval and Promulgation of Implementation Plans, 40 CFR part 52, subparts A and N, and appendices D and E;
- Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR part 53; and
- Ambient Air Quality Surveillance, 40 CFR part 58.

Between the current SIP-approved adoption date of July 1, 2020 and the revised adoption date of July 1, 2021, the EPA made no changes to 40 CFR parts 50, 53, and 58. With respect to 40 CFR part 51, the EPA revised the continuous emissions monitoring reporting requirements in Appendix P to make SIP-related reporting more consistent with similar reporting under the New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants.¹ Specifically, certain source categories² subject to SIP requirements must, at a minimum, report excess emissions semi-annually instead of quarterly.

The EPA also revised 40 CFR part 52 to update the requirements for certain states to address the interstate transport of pollutants in the eastern part of the United States.³ We note this rulemaking does not apply in Idaho. Additionally, the EPA revised the 40 CFR 52.21 major new source review applicability regulations to clarify when the requirement to obtain a major new source review permit applies to a source proposing to undertake a physical change or a change in the method of operation (i.e., a project) under the major new source review pre-construction permitting programs.⁴

¹ 85 FR 49596, August 14, 2020.

² The covered source categories are: fossil fuel-fired steam generators; fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries; sulfuric acid plants; and nitric acid plants.

³ 86 FR 23054, April, 30, 2021.

⁴ 85 FR 74890, November 24, 2020.

Finally, the EPA revised 40 CFR part 52 subpart N to approve changes to the Idaho SIP, including an update to the incorporation by reference of EPA regulations, revisions to address interstate transport requirements, and a change to redesignate to attainment the Idaho portion of the Logan, Utah-Idaho fine particulate matter nonattainment area.⁵

Idaho's revisions to IDAPA 58.01.01.107, section 03, paragraphs a through e have the effect of incorporating into the Idaho SIP the revisions to 40 CFR parts 51 and 52 described above. After reviewing the submission, we have made the preliminary determination that the submitted updates are consistent with Federal regulations and Clean Air Act requirements.

III. Proposed Action

The EPA proposes to approve and incorporate by reference revisions to the Idaho SIP submitted on May 4, 2022. Upon final approval, the Idaho SIP will include IDAPA 58.01.01.107 *Incorporation by Reference*, subsection 03, paragraphs a through e, state effective March 24, 2022. As described in section II of this preamble, this provision incorporates the national ambient air quality standards and related planning and monitoring requirements as of July 1, 2021.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described in section III of this preamble. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of

⁵ 85 FR 73632, November 19, 2020; 85 FR 65722, October 16, 2020; 86 FR 18457, April 9, 2021; 86 FR 27532, May 21, 2021.

this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a State Implementation Plan submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing State Implementation Plan submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of the requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking would not apply on any Indian reservation land or in any other area in Idaho where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rulemaking would not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 13, 2022

Casey Sixkiller,
Regional Administrator, Region 10.